

REMARKS

Claims 1-20 are in this application.

Claims 1-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/823,893. The Examiner states that, although the conflicting claims are not identical, they are not patentably distinct from each other because a fluoropolymer containing 68 to 74% fluorine (claim 1, line 4 and claim 11, line 4 of this application) is obvious over one containing 68 to 75% fluorine (claim 1, lines 4-5 of the '893 application).

Claims 12-19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. 6,365,250. The Examiner states that, although the conflicting claims are not identical they are not patentably distinct from each other because:

a. The use of 5 to 95 % of the first fluoropolymer (claim 1, line 3 of this application) is obvious over the 20 to 80 % used in the patent (claim 1, line 6);

b. The use of 5 to 95 % of the first fluoropolymer (claim 1, line 3 of this application) is obvious over the use of 68 to 73 % fluorine in the first fluoropolymer (claim 1, line 7 of the patent); and

c. The extruding steps of claim 12, lines 3 and 11 of this application are conventional ways of "forming" barrier/protective layers (per claim 1, lines 2 and 3 of the patent).

Claims 2-11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5-20 of U.S. 6,203,873. The Examiner states that although the conflicting claims are not identical, they are not patentably distinct from each other

because:

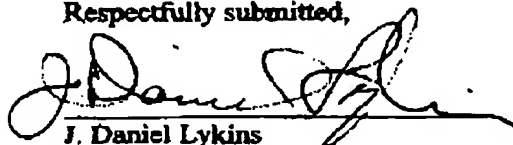
a. The use of 5 to 95 % of the first fluoropolymer (claim 1, line 3) is obvious over the 20 to 80 % used in the patent (claim 1, line 1 and claim 19, line 3); and

b. The use of 68 to 74 % fluorine (claim 1, line 4 of this application) is obvious over the use of 65 to 73 % fluorine in the first fluoropolymer (claim 1, line 3 and claim 19, line 4 of the patent.

In response to the above rejections, applicant is submitting herewith a timely filed Terminal Disclaimer in compliance with 37 CFR 1.321(c) for the purpose of overcoming the provisional and actual nonstatutory double patenting rejections noted above. The conflicting copending application No. 10/823,893; U.S. 6,365,250; and U.S. 6,6203,873 are commonly owned with this application.

In view of the submission herewith of an appropriate Terminal Disclaimer, it is believed that this application is now in condition for allowance and an early indication thereof is earnestly solicited.

Respectfully submitted,



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